

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**  
**I.D.#4845**  
**ENERGY DIVISION**  
**RESOLUTION E-3947**  
**September 8, 2005**

**R E S O L U T I O N**

Resolution E-3947. Pacific Gas and Electric Company for approval of its updated long-term procurement plan filed in compliance with D.04-12-048.

By Advice Letter 2643, 2643-E-A, filed March 25, and April 1, 2005.

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**SUMMARY**

**This Resolution approves Pacific Gas and Electric Company's (PG&E) updated long-term procurement plan filed in compliance with Decision (D.) 04-12-048.**

Per Ordering Paragraphs (OP) 1 and 24 of D.04-12-048, PG&E filed its updated long-term procurement plan on March 25, 2005. PG&E filed a supplement to the Advice Letter (AL) 2643 on April 1, 2005.

PG&E's supplement requested that the filing be effective on April 1, 2005.

The AL submitted by PG&E includes confidential appendices intended to demonstrate its compliance with D.04-12-048. PG&E submitted those appendices as Confidential Material protected by Section 583 of the Public Utilities Code, which prohibits disclosure of confidential public utility information except by Commission order or in the course of a hearing or proceeding.

The City and County of San Francisco (City) protested PG&E AL 2643-E and its supplement 2643-E-A on April 21, 2005. The City's protest is rejected.

This resolution approves AL 2643-E, and 2643-E-A effective today, August 25, 2005.

**BACKGROUND**

**D.04-12-048 orders the three major electric utilities to submit compliance filings to update their procurement plans in accordance with the direction provided in the Decision.**

On December 16, 2004, the Commission adopted D.04-12-048 in Rulemaking 04-04-003, an Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning.

The objective of D.04-12-048 was “to give the three IOUs [investor-owned utilities] authorization to plan for and procure the resources necessary to provide reliable service to their customer loads for the planning period 2005 through 2014” as well as “coordinate and incorporate Commission and legislative efforts for other proceedings.”<sup>1</sup> Towards this end, D.04-12-048 adopted the long-term procurement plans of the three IOUs (Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company), provided direction on resource planning, and ordered the following:

“Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) shall, by no later than March 25, 2005, submit a compliance filing updating their procurement plans to reflect the changes and modifications adopted in today’s decision. This compliance filing, shall include, but not be limited to the following:

- a. Annual energy and capacity resource accounting tables, consistent with directions on baseline load forecasts adopted in this decision;
- b. Procurement activities undertaken by the utilities subsequent to their initial filings in this proceeding;
- c. Revised energy efficiency targets as adopted in Decision (D.) 04-09-060;
- d. Demand response programs proposed for 2005 implementation in Rulemaking (R.) 02-06-011;
- e. The effect of resource adequacy and local reliability requirements adopted respectively in D.04-10-035 and D.04-07-028;
- f. Changes occurring as a result of Commission decisions implementing Community Choice Aggregation (CCA) in R.03-10-033;
- g. Revised forecasts for the price of natural gas, if necessary;
- h. Status of qualifying facilities (QFs) with soon to be expiring contracts; and
- i. Any other material information that affects the utilities’ procurement activities.”

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<sup>1</sup> D.04-12-048, p.5

In compliance with the Decision, PG&E, SCE and SDG&E filed updates to their long-term procurement plans on March 25, 2005.

## **NOTICE**

Notice of AL 2643-E was made by publication in the Commission's Daily Calendar. PG&E states that copies of the Advice Letter were mailed and distributed in accordance with Section III-G of General Order 96-A.

## **PROTESTS**

The City and County of San Francisco (City) protested PG&E AL 2643-E and its supplement 2643-E-A on April 21, 2005. The City is concerned about the agreement PG&E executed with Mirant, which is a part of the settlement CPUC entered into with Mirant and its affiliates. The City requests that the Commission reject the advice letter and the amendment, if it results in the possibility that Potrero Power Plant would operate more hours than it would under a condition 2 Reliability Must Run (RMR) Agreement; if not, then the City still requests that Commission deny PG&E's AL since the agreement cannot be used to satisfy PG&E's resource adequacy requirements.

Stating that the Potrero Power Plant is old, inefficient, and a major source of water and air pollution, the City opposes any agreement that could allow the plant to operate more hours and emit more pollution.

The City is concerned that Mirant will obtain from the ISO approval to elect Condition 1 operation under RMR agreement with the ISO. However, under Condition 1 Mirant may elect to participate in market transactions beyond times that ISO may need to dispatch the units for reliability purposes.

The City also points out that in another section of the Agreement, it is stated that neither Mirant nor PG&E has the right to dispatch the units beyond ISO's dispatch. The City questions the purpose of the condition change if the plant will not operate any more than is needed for system reliability.

In its response to the City's protest,<sup>2</sup> PG&E states that the City's request is moot and should be denied, since the agreement in dispute is already approved by the Commission.

PG&E emphasizes that the status change from condition 2 to condition 1 cannot result in an increase in operation beyond what is required by ISO dispatch, since both Mirant and PG&E are excluded from dispatching the units beyond the ISO's dispatch. PG&E also adds that the City's statements on PG&E's compliance with the resource adequacy requirements is premature since the rules are in progress and the compliance is not an issue to be determined in this advice letter.

## **DISCUSSION**

**Energy Division reviewed PG&E's compliance filing and concluded that PG&E's updated long-term procurement plan complied with D.04-12-048.**

Per the OP 1 of D.04-12-048, PG&E filed its updated long-term procurement plan on March 25, 2005, and submitted a supplement on April 12, 2005. PG&E included the following updates in its compliance filing:

- Annual energy and capacity balance tables;
- PG&E's procurement activity since July 9, 2004;
  - Mirant Agreement
  - TriDam Contract
  - November-December Procurement RFO
  - Short-term Procurement
- Updated energy efficiency (EE) assumptions to match the EE targets provided in D.04-09-060;
- Peak load reductions equal to demand response targets set in D.03-06-062;
- Resource adequacy requirements;
- Delayed expected impacts of CCA program based on the current implementation plan delays; and

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<sup>2</sup> PG&E received the protest on April 27, 2005 and responded within five business days after receipt, in compliance with General Order 96-A.

- Updated natural gas and forward electric prices.

PG&E's filing contains the updates ordered in D.04-12-048. The Energy Division concludes that PG&E filing should be approved.

**The Energy Division also concludes that this advice letter is not the proper channel to protest the agreement entered by the CPUC and approved by FERC. Therefore, the City's request is denied.**

CPUC had entered into the settlement agreement with Mirant Corporation and its affiliates as announced in the CPUC's January 14, 2005 Press Release. The FERC approved the settlement agreement on April 13, 2005. PG&E's compliance filings appropriately included the capacity of the plant.

D.04-12-048 expressed the Commission's intent to provide updated capacity and energy tables, once the data are revised. Specifically, the Decision stated the following:

"This Commission favors openness in its decisions and in the information that market participants have in dealing with each other. Another section of this decision discusses specifically how we are responding to legislative direction on confidentiality matters. In this section we note that it is not the intent of the Commission to provide the means by which market power could be exercised against the LSEs and, hence, against electric service customers in California. Therefore, this decision does not present information about the current NOPs of the utilities. Nor do we provide the elements from which that information can be calculated. **However, we will provide simplified tables based on projections of future resource balance information for the years 2007-2014 after those numbers have been refreshed from their initial filing in July.**" (p.32) (emphasis added)

The AL submitted by PG&E includes confidential appendices intended to demonstrate its compliance with D.04-12-048. PG&E submitted those appendices as Confidential Material protected by Section 583 of the Public Utilities Code, which prohibits disclosure of confidential public utility information except by Commission order or in the course of a hearing or proceeding.

The CPUC opened Rulemaking (R.)05-06-040, which will examine issues related to the disclosure of procurement-related data and documents, balancing the need for effective public participation with the potential harm to ratepayers that may result from disclosure of market sensitive data. In order not to prejudge the outcome of R.05-06-040, we will not disclose PG&E's updated procurement data at this time. Depending on the outcome of R.05-06-040, we may require PG&E to file a supplement to its advice letter.

## **COMMENTS**

PU Code section 311(g) (1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution is neither waived nor reduced. Accordingly this draft resolution is mailed to parties in R.04-04-003 and will be placed on the Commission's agenda no earlier than 30 days from today. Comments are due on August 22, 2005. Reply comments are due August 29, 2005.

## **FINDINGS**

1. Per Ordering Paragraph (OP) 1 and 24 of D.04-12-048, PG&E filed its updated long-term procurement plan.
2. The City and County of San Francisco protested Advice Letter 2643-E and its supplement.
3. This advice letter is not the proper channel to protest the agreement entered by the CPUC and approved by FERC, therefore the City's request is denied.
4. Energy Division concludes that PG&E's updated long-term procurement plans as filed in AL 2643-E and its supplement 2643-E-A comply with D.04-12-048.
5. The AL submitted by PG&E includes confidential appendices intended to demonstrate its compliance with D.04-12-048. PG&E submitted those appendices as Confidential Material protected by Section 583 of the Public Utilities Code, which prohibits disclosure of confidential public utility information except by Commission order or in the course of a hearing or proceeding.
6. The CPUC opened Rulemaking (R.) 05-06-040 which will examine issues related to the disclosure of procurement-related data and documents, balancing the need for effective public participation with the potential harm to ratepayers that may result from disclosure of market sensitive data. In order not to prejudge the outcome of R.05-06-040, we will not disclose PG&E's updated procurement data at this time.
7. Depending on the outcome of R.05-06-040, we may require PG&E to disclose the updated procurement data submitted as part of its compliance filing Advice Letter AL 2643 and AL 2643-A.

## **THEREFORE IT IS ORDERED THAT:**

1. We approve PG&E's Advice Letter 2643 and 2643-E-A.

2. Depending on the outcome of R.05-06-040, we may require PG&E to disclose the updated procurement data submitted as part of its compliance filings, Advice Letters 2643-E and 2643-E-A.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on September 8, 2005; the following Commissioners voting favorably thereon:

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STEVE LARSON  
Executive Director

September 8, 2005

August 3, 2005

ID#4845 RESOLUTION E-3947  
Commission Meeting September 8, 2005

TO: PARTIES TO Pacific Gas and Electric Company ADVICE LETTERs 2643, 2643-E-A

Enclosed is draft Resolution Number E-3947 of the Energy Division. It will be on the agenda at the next Commission meeting, which is held at least 20 days after the date of this letter. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the draft Resolution.

An original and two copies of the comments, with a certificate of service, should be submitted to:

Jerry Royer  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

A copy of the comments should be submitted to:

Sepideh Khosrowjah  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Fax: 415-703-2200



Any comments on the draft Resolution must be received by the Energy Division by August 23, 2005. Those submitting comments must serve a copy of their comments on 1) the entire service list attached to the draft Resolution, 2) all Commissioners, and 3) the Director of the Energy Division, on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Replies to comments on the draft resolution may be filed (i.e., received by the Energy Division) on August 30, 2005, five days after comments are filed, and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

Judith Ikle  
Energy Division

Enclosure: Service List  
Certificate of Service

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of Draft Resolution E-3947 on all parties in these filings or their attorneys as shown on the attached list.

Dated August 3, 2005 at San Francisco, California.

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***Jerry Royer***

**NOTICE**

Parties should notify the Energy Division, Public Utilities  
Commission, 505 Van Ness Avenue, Room 4002  
San Francisco, CA 94102, of any change of address to  
insure that they continue to receive documents. You  
must indicate the Resolution number on the service list  
on which your name appears.

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